

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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|-----------------------|---|-----------------------|
| DAVID MATTHEW PALMER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. CIV-23-191-D |
| |) | |
| DR. MICHAEL BOGER, |) | |
| |) | |
| Defendant. |) | |

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Mitchell recommends the dismissal of this action without prejudice under Fed. R. Civ. P. 41(b) due to Plaintiff's failure to comply with prior orders, including his failure to pay the initial partial filing fee that was due by April 25, 2023.

The case file shows no timely objection to the Report nor request for an extension of time, even though Plaintiff was expressly informed of his right to object, the procedure for doing so, and the consequences of failing to object. Therefore, the Court finds that Plaintiff has waived further review of all issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons explained by Judge Mitchell, the Court finds that this action should be dismissed without prejudice to refiling.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 10] is **ADOPTED** in its entirety. This action is **DISMISSED** without prejudice to a future filing. A separate judgment of dismissal shall be entered.

IT IS SO ORDERED this 2nd day of June, 2023.



TIMOTHY D. DeGIUSTI
Chief United States District Judge